

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6850

BILL NUMBER: HB 1341

NOTE PREPARED: Dec 30, 2011

BILL AMENDED:

SUBJECT: Mortgage Foreclosures and Junior Lienholders.

FIRST AUTHOR: Rep. Speedy

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill defines "interested person" as: (1) a holder of an evidence of debt secured by a mortgage that is being foreclosed; or (2) an owner of real property as grantee in a deed of conveyance executed and delivered by a sheriff.

It defines "omitted party" as a person: (1) who, before the commencement of an action for the foreclosure of a mortgage on real property, has acquired a record interest in the real property that is junior to the mortgage or other lien being foreclosed and would otherwise be extinguished by the foreclosure; and (2) who is not included as a defendant in the judicial foreclosure action or is included as a defendant in the judicial foreclosure action but is not served with process or notice of sale.

The bill allows an interested person or an omitted party to bring a civil action at any time to: (1) determine the extent of an omitted party's interest in real property; or (2) terminate an omitted party's interest in real property; that is the subject of a judicial sale. It also provides that in the civil action, the omitted party's interest in real property: (1) must be terminated by a decree in which the omitted party is afforded redemption rights if the omitted party would have been entitled to redeem under certain circumstances; and (2) is not subject to termination if the omitted party proves the omitted party has a right to receive proceeds that would be paid at the judicial sale. It also provides that an amount paid for redemption to an omitted party may not be less than the sale price that results from the foreclosure of the interested person's senior lien plus interest.

Effective Date: Upon passage.

Explanation of State Expenditures:

Explanation of State Revenues: *Court Fee Revenue:* This bill provides that an interested person or an

omitted party may bring a civil action at any time to determine the extent of an omitted party's interest in real property or terminate an omitted party's interest in real property that is the subject of a judicial sale.

If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected:

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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